



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 17, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 17, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman (joined meeting at 11:42 a.m.)
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 189 12
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by adjusting the sequence of Agenda items under the 10:30 a.m. Public Hearings, as follows:

“AN ORDINANCE ESTABLISHING THE ANNUAL SERVICE CHARGE, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGE FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1”

ASSESSMENT ROLLS FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1

“AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1”;

and by deleting “Job Applicants’ Qualifications” and “Personnel” under

Executive Session; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Approve Minutes The minutes of March 20, March 27, and April 3, 2012 were approved by consent.

Correspondence Mr. Moore read the following correspondence:

DELAWARE TECHNICAL COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.

RE: Letter in support of the 2012 Women's Day Celebration.

Proclamations The Council presented a Proclamation entitled "Fair Housing Month" to the Sussex County Association of Realtors.

The Council presented a Proclamation to Kathy Graybeal, Sussex County Librarian and representatives from other libraries in the County. Ms. Graybeal and others spoke about the "Geek the Library" public awareness program and the importance of libraries, i.e. print materials, DVDs, programs, and resources.

Administrator's Report Mr. Lawson read the following information in his Administrator's Report:

1. **Delaware Department of Transportation Public Workshops**

As part of the rail/trails portion of the Capital Transportation Program, the Delaware Department of Transportation has scheduled three public workshops regarding the Shared Use Pathways as follows:

Thursday, May 10 –	Dover City Hall
Monday, May 14 –	WILMAPCO Office, Newark
Thursday, May 17 –	Lewes City Hall

Each of the workshops will take place from 4:00 to 7:00 p.m. and the public is welcome to participate.

2. **Sussex County Emergency Operations Center Call Statistics – March 2012**

Attached please find the call statistics for the Fire and Ambulance Callboard for March 2012. There were 15,170 total calls handled during the month of March. Of those 9-1-1 calls, 75 percent were made from wireless phones.

3. **Report from Georgetown Fire Company**

On April 11, 2012, Mr. Mark Rogers, Georgetown Fire Chief, contacted Joe Thomas, Director of the Sussex County Emergency Operations Center, regarding the performance of the Sussex County fire and ambulance dispatchers.

Adminis-
trator's
Report
(continued)

Chief Rogers specifically described a call on March 28 in Georgetown involving a house fire with subjects trapped on the second floor. During the call, Dispatcher Steve Deery provided critical information to the responding fire crews that proved vital to reaching the victims in the building. Chief Rogers commended Dispatcher Deery for what he describes as “a lifesaving difference” in allowing the firemen to reach the victims in time.

Congratulations to Dispatcher Deery and all of the men and women who work in the Sussex County Emergency Operations Center.

[Attachments to the Administrator's Report are not attachments to the minutes.]

Mrs. Deaver questioned if any action is being taken as a follow up to the presentation given by the Sussex Conservation District at the March 20th meeting. Mr. Lawson responded that follow-up conversations have been held with the Sussex Conservation District since the meeting and possible options are being discussed.

Health
Insurance
Renewal

Mrs. Webb and David Smith, representing Integra, presented health insurance renewal recommendations. Mrs. Webb stated that, while the County remains self –insured, it must still renew its stop-loss insurance; this insurance covers the County's claims above the self-insurance limits.

Mrs. Webb discussed the following:

- ✓ The County's health insurance renewal of the stop/loss expires May 1, 2012. It is recommended to renew the County's stop/loss insurance with the current carrier (Companion) but to increase the County's specific threshold from \$250,000 to \$285,000. Based upon the quotes received, the risk the County wants to assume, and the County's claim history – this was the best offer. The savings to be realized in fixed costs over the last year will be \$22,708.00. The County's insurance consultant, IBC, is also in agreement with this choice.
- ✓ Continue increased education and awareness of available programs to save money; these programs, if used by the employees, saves the County money: disease management, health benefit waiver, urgent care centers vs. emergency room visits, and One Call Network for preferred radiology network.

Mr. Smith discussed the benefit of increasing the stop/loss threshold from

\$250,000 to \$285,000 and he stated that this recommendation follows an evaluation of the claims that the County has had over the past 6 years. The County would have saved an additional \$202,000 in premiums if the \$285,000 limit was in place during that 6-year period. Mr. Smith stated that there would be a slight risk in exchange for a large return.

**Health
Insurance
Renewal
(continued)**

Mr. Smith noted that the promotion and use of urgent care centers versus the emergency room has saved the County approximately \$123,000 last year in claims.

Mrs. Webb stated that one of the largest savings last year was from the AMPS (Advance Medical Pricing Solutions) – a medical billing review program. Mr. Smith stated that a savings of \$145,000 was projected last year; however, the savings were actually over \$600,000.

It was noted that no reduction in benefits is proposed.

**M 190 12
Approve
Insurance
Agreement
with
Companion
Life
for
Stop/Loss
Renewal
Reinsurance**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves entering into an insurance agreement with Companion Life to purchase Stop/Loss Renewal Reinsurance for the period May 1, 2012 through April 30, 2013 for a fixed price of \$278,892 and to continue to use Alliance, iNetiCare, and Health Advocate.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinances
Relating to
the Oak
Orchard
SSD
Expansion
No. 1**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL SERVICE CHARGE, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGE FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1” and the Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1” and on the ASSESSMENT ROLLS FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1.

Mrs. Webb reviewed the two draft ordinances which were introduced on March 20, 2012: one ordinance would establish the rates for the Oak Orchard Sanitary Sewer District Expansion No. 1 and one ordinance would amend the 2012 sewer budget to include both the revenues and expenses resulting from the Oak Orchard Expansion. Mrs. Webb also reviewed the proposed Assessment Rolls.

**Public
Hearing/
Proposed
Ordinances
Relating to
the Oak
Orchard
SSD
Expansion
No. 1
(continued)**

Mrs. Webb reported that the Oak Orchard Project is 790 EDUs; the estimated projected average annual rate at the time of introduction in 2007 was \$1,155.00, which included a service charge of \$289.00 and an average front foot charge of \$8.66. However, the actual cost of the project came in approximately 37 percent lower than projected; the actual average annual rate will be \$731.00 with a service charge of \$254.00 and a front foot charge of \$4.77. (The 100 front foot average is \$477.00.) Mrs. Webb explained that the cost reductions are due to the timing of the project; the County was able to take advantage of the ARRA federal stimulus program, which allows both grants and lower than usual interest rates. Also, the construction contracts were bid at a time when the economy was sluggish and competition was great. Mrs. Webb also reported that the connection fees are funded within the project (not waived) so there will be no connection fees at this time.

Mike Izzo, County Engineer, stated that, contingent on approval by Council on this date, letters will be mailed to residents announcing that connections can begin to the district.

Public comments were heard.

Edward Funk (Captains Grant) thanked the County for the great news regarding the rates and he questioned if residents will have one or two meters (water in and water out).

- Mr. Izzo responded that there will only be one meter.
- Mrs. Webb clarified that the connection fees were not waived; they were funded with the grant for the project.

Patrick Gede (Oak Meadows) questioned why there are fire hydrants in their development but not in other developments and he questioned the charges for the fire hydrants.

- Mr. Izzo responded that this is a water question and not a sewer question. He stated that the Oak Meadows development has central water and the water is also used for fire hydrants for fire protection and a flushing mechanism; the fees for the water system have nothing to do with the sewer system. He noted that the County is not in the water business.

William Elmer (River Village) requested a clarification on the \$4.77 fee for a hook-up and no cost for the impact fee.

- Mrs. Webb responded that the \$477.00 fee is the average front foot charge (annual charge) – the actual breakdown is \$2.96 for distribution and collection and \$1.81 for transmission and/or treatment per front foot; there is a 100 foot cap. Mrs. Webb stated that this is just an average – the actual is \$4.77 per front foot.

Mr. Elmer thanked Mrs. Webb and stated that he votes in support of the proposal.

Kay Parker (Oak Meadows) raised a question regarding the \$731.00 fee.

**Public
Hearing/
Proposed
Ordinances
Relating to
the Oak
Orchard
SSD
Expansion
No. 1
(continued)**

- **Mrs. Webb stated that the \$731.00 is the average annual rate, which is made up of the \$254.00 service charge and the \$477.00 front foot charge (for lots with 100 front feet).**

Kay Parker also raised a question regarding charges for property owners with two lots (i.e. on one lot the property owner has their residence and on the other lot, the property owner has a garage).

- **Mr. Izzo stated that, if the two lots are recorded as two separate building lots and a single family home is on one of the lots, the average annual rate will be \$731.00; on the other lot, the service charge will not apply since there will be no sewer service to the garage; however, front footage costs would still have to be paid. Mr. Izzo advised that the property owner could combine the two lots into one lot so that there would be one single building lot (and the lot would be capped at 100 feet which would be an opportunity for savings). He noted, however, that the property owner must be serious about having only one building lot instead of two.**
- **Mrs. Webb stated that the 100 foot cap is an annual budget decision.**
- **Patti Faucett, Director of Utility Billing, clarified that, in regard to the 100 foot cap; property owners must be current with taxes and sewer fees to be eligible for the cap discount.**

Robert Davis (Captains Grant) complained about the mess in the development. He stated that the road is higher and there is a drop off; that water is coming up to and in the houses – swales are not fixed properly; that manholes are lower than the road and are filled with blacktop; that there are sand piles behind his house and the sand is rolling into his back yard; that the construction work is noisy and occurs as late as 10:00 p.m.; and that even though he has called and complained, nothing has been corrected.

- **Mr. Vincent stated that the Council person for this district should tour the area with Mr. Izzo.**

Dale Thornton (Captains Grant) stated that, as part of the sewer project, the roads had to be resurfaced and as a result, on the curve coming into the development, the road is actually narrower compared to the road coming into and out of the curve and this creates a problem for school buses since the buses cannot make the curve without going off the road.

There were no additional public comments and the Public Hearing was

closed.

**M 191 12
Adopt
Ordinance
No. 2249**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2249 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL SERVICE CHARGE, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGE FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1”.

**M 191 12
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 192 12
Adopt
Ordinance
No. 2250**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2250 entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION #1”.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 193 12
Adopt
Assessment
Rolls**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based on the recommendation of the County Engineer and the County Finance Director and for the reasons stated during the Public Hearing, the Sussex County Council hereby adopts the Assessment Rolls for the Oak Orchard Sanitary Sewer District Expansion #1, as presented on April 17, 2012 for the period April 17, 2012 to June 30, 2012.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Banking
Services
RFP**

Mrs. Webb reported that the Finance and Accounting departments recently issued an RFP for Banking Services. The RFP was issued for several reasons, including:

- Ensure compatibility with the new ERP system.**
- Take advantage of efficiencies offered by the ERP system.**
- Add services to accounts to minimize fraud risk.**
- Evaluate banking options due to changing banking environment.**

- **Maximize earnings on funds.**

**Banking
Services
RFP
(continued)**

Mrs. Webb reported that proposals were received from the following: M&T Bank, Fulton Bank, WSFS and PNC Bank. (The County currently banks with M&T Bank, Fulton Bank and Citizens Bank.) Mrs. Webb reported that the proposal from Fulton Bank limited funds on deposit to \$20,000,000 and this is not adequate for the day-to-day needs of the County. The proposal from PNC Bank noted that it would not provide collateralization of County deposits and collateralization is a requirement per the County's investment policy and an important safeguard when managing public funds. WSFS's proposal limited the collateral pledged for the County's deposits to \$50,000,000; the balance of the County's funds would need to be deposited at another financial institution and this would negate efficiencies which would be realized in the Accounting Department through the use of one bank. M&T Bank's proposal offered all of the required services the County requested in the RFP. In addition, full collateralization was included along with the Bank's willingness to accept all County deposits. M&T Bank also offers services that will allow the County to grow with its banking services, as needed. M&T Bank would offer ease of conversion due to the fact that it currently holds the County's operating accounts such as the General Fund, Disbursement Account, and Payroll Account. The County already utilizes its ACH services for direct deposit of payroll.

It was noted that the bids were evaluated by Susan Webb, Finance Director; Gina Jennings, Director of Accounting; and Louise Thompson, Account Analyst.

Mrs. Webb advised that, based on the evaluation of the bids, it is recommended that the County Council select M&T Bank for the County's banking services. If approved, the transition will begin immediately and the new accounts will be ready to "go live" with the ERP system on July 1, 2012.

**M 194 12
Move All
Banking
Services
to M&T
Bank**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council approves moving all banking services to M&T Bank.

Motion Adopted: 3 Yeas, 2 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Absent; Mr. Wilson, Yea;
Mr. Vincent, Yea

**Wastewater
Agreement**

Hal Godwin, Deputy County Administrator, presented a Wastewater Agreement for the Council's consideration.

**M 195 12
Execute**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for

Wastewater Agreement/Carl M. Freeman Communities **Sussex County Project No. 81-04, Agreement No. 396-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Carl M. Freeman Communities for wastewater facilities to be constructed in Americana Bayside, Phase 5, Revision 1, located in the Fenwick Island Sanitary Sewer District.**

M 195 12 (continued) **Motion Adopted: 3 Yeas, 2 Absent.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Absent; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Legislative Update **Hal Godwin, Deputy County Administrator, presented the following legislative update:**

Senate Bill No. 167 – AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE LEGALITY OF ANY ORDINANCE, CODE, REGULATION OR MAP RELATING TO ZONING

Synopsis: If a municipality or county passes a land-use ordinance that violates state law, an aggrieved party has only 60 days to file a court challenge. After that, the ordinance cannot be challenged, nor can subsequent decisions based on that ordinance be challenged based on its invalidity. This Bill seeks to remove that bar, recognizing that the enactment of an ordinance that violates state law cannot be legitimized by the passage of time.

There has been no change in the status of this Bill since Mr. Godwin's report to Council on April 3.

House Bill No. 298 – AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

Synopsis: This Bill removes the current §4019(e) from the Code and dismisses all standards that are applicable to municipal and county government assessments or assessors thereby adopted. The new §4019(e) clearly states that municipal and county assessors are not subject to the regulation of the Council on Real Estate Appraisers.

Mr. Godwin reported that this Bill was introduced on April 4, 2012 and assigned to Committee. A meeting of assessors from all three counties will be held on April 12, 2012 to discuss lobbying support.

House Bill No. 274 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Synopsis: This Bill amends Title 9 to require dog owners to obtain a dog

license within thirty days of having their dogs vaccinated for rabies, and provides for exceptions. Additionally, this Bill would require veterinarians to notify dog owners of the licensing requirements.

Mr. Godwin reported that he attended a meeting on April 5, 2012 with Representative Jaques (the sponsor of the Bill), his staff, and representatives from New Castle County and the SPCA. He also reported that this Bill is being tabled for further study.

Legislative
Update
(continued)

House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

Synopsis: This Bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed by homeowners and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.

Mr. Godwin advised that this Bill passed the House on April 5, 2012.

House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO CAPITATION TAX

Synopsis: This Bill makes the Delaware law consistent in Sussex and Kent Counties by giving Sussex County government the same discretion as Kent County government to set its own capitation tax amount. As the law currently governs, Sussex County is required to set a minimum capitation tax amount of \$3.00. This Bill eliminates that requirement. New Castle County is not authorized to levy or collect a capitation tax.

Mr. Godwin stated that this Bill was released from Committee on April 4, 2012.

House Bill No. 283 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT

Synopsis: This Bill makes the Delaware law consistent in Sussex and Kent counties by giving Sussex County government the same discretion as Kent County government to enact its personnel rules administratively. As the law currently governs, Sussex County is required to refer all proposed personnel rules to the County's Personnel Board, which requires adequate public notice and a formal public hearing. After the Personnel Board review and recommendation, the law requires the county government to adopt the proposed rule by ordinance, which requires a second adequate public notice and a second formal public hearing. This Bill eliminates these requirements and allows Sussex County to enact its personnel rules

administratively, the same as is allowed in Kent County.

Mr. Godwin reported that the Bill passed the House on April 5, 2012.

SS-1 for Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Legislative
Update
(continued)

Synopsis: This Substitute Bill adds protections for dogs housed outdoors during winter months and during extreme weather events. It also adds restrictions regarding the tethering of dogs. Finally, it requires outdoor dogs to have water available in spill-proof water receptacles.

There has been no change in the status of this Bill since Mr. Godwin's report to Council on April 3.

House Bill No. 290 – AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16, 23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS AND SHERIFF DEPUTIES

Synopsis: This Bill makes the Delaware law clear that the county sheriffs and their deputies do not have arrest authority. Historically, the sheriffs and deputies have not exercised arrest authority and the Attorney General's office has given an opinion that the sheriff's "power to arrest is no greater than that shared by any citizen".

There has been no change in the status of this Bill since Mr. Godwin's report to Council on April 3.

Senate Bill No. 149 – AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENDANGERED SPECIES

Synopsis: This Bill updates Title 7 Conservation, Chapter 6 Endangered Species, relating to conservation and endangered species. This Bill models the policies of neighboring states (i.e. Maryland and New Jersey). Provisions in this Bill define the powers and duties of listing and delisting of threatened and endangered species, rules and regulations, and implementation authority (DNREC).

There has been no change in the status of this Bill since Mr. Godwin's report to Council on April 3.

Legislation to be proposed –

Mr. Godwin previously reported that the County's Director of Assessment, Eddy Parker, has advised that, every March, the Board of Assessment Review sits for at least 15 days (as required by State Code) to hear possible appeals from the public about assessment rolls. Mr. Parker has proposed the possibility of legislation that would alter the requirement from "15

days” to “as needed”. It was noted that there have been very few times that the Board has had to meet regarding an appeal and Mr. Parker stated that it is a waste of the County’s resources. In 2012, there were no appeals. The Board members receive \$75.00 per day.

Legislative
Update
(continued)

Mr. Parker previously stated that he is proposing that the State Code be amended so that the Board will meet in March of each year to hear cases on an as needed basis.

As of this date, the County is drafting legislation to change meeting requirements.

House Substitute No. 1 for House Bill No. 227 – AN ACT TO AMEND TITLE 9, TITLE 22, AND TITLE 31 RELATING TO HOUSING

Synopsis: This substitute bill requires that the selection process by which public financial assistance is allocated applications for new dwelling units shall include universal design standards. Public financial assistance includes a contract with a State agency, real estate donated by the State, State tax credits, grant assistance from State funds, State loan guarantees, federal funds administered by the State, its agency, local governments or municipalities and funding from location governments and their agencies. The substitute bill clarifies that the requirements do not apply to renovating structures or to homeowners’ residences. In selecting a bid, the extent of universal design’s use may form a basis to award the contract based on the best value, rather than lowest bidder. The bill sets up a 41-point scale covering the key elements of universal design and the substitute bill allows for fractions of a point based on the degree to which the project uses a universal design feature.

Mr. Godwin reported that House Bill No. 227 was introduced on June 30, 2011.

Brandy Bennett of the Sussex County Community Development Office reported that this Bill has been in process for approximately four years and it started out as a mandatory bill for all new construction and major renovations that utilize public funding. It has since been modified and is now proposed as an incentive program.

Andy Wright of the Building Code Department stated that it is the County’s policy that if a project goes through HUD or the Delaware State Housing Authority, the County’s review and fees are waived (as long as they have an on-site inspector, State inspector, or Fire Marshal).

Mr. Godwin reported that the General Assembly goes back into session on Tuesday, April 24th, at 2:00 p.m.

IBRWF
Expansion/

Michael Izzo, County Engineer, presented the bid results for the Inland Bays Regional Wastewater Facility Expansion, Phase 2A – Pole Building

Pole Building Contract/ Bid Results (Contract No. 12-09). The only bidder was Doubletree Structures of New Holland, Pennsylvania in the amount of \$219,963.00. The Engineer's estimate for the project was \$285,660.00.

(continued) Mr. Izzo explained that he believes additional bids were not received due to the fact that the project will be using funding from Rural Development and there will be a lot of "bells and whistles" and that the project will have to be completed within a tight time frame and there will be steep penalties associated with it.

M 196 12 Award Bid/ IBRWF Expansion/ Pole Building Contract A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Project No. 12-09, Inland Bays Regional Wastewater Facility Expansion, Phase 2A – Pole Building, be awarded to Doubletree Structures of New Holland, Pennsylvania, at the bid amount of \$219,963.00 contingent upon the receipt of approval from the funding agency.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Draft Zoning Ordinances Vince Robertson, Assistant County Attorney, reviewed and the Council discussed seven draft ordinances regarding proposed updates and corrections to the County's Zoning and Subdivision Codes.

Introduction of Proposed Ordinances Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO DELETE ATTACHMENT 1, CHAPTER 99, OF THE CODE OF SUSSEX COUNTY REGARDING 'TYPICAL ROAD SECTIONS FOR SUBDIVISIONS'".

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-5 AND SECTION 99-13A, OF THE CODE OF SUSSEX COUNTY TO ADD A DEFINITION OF 'PROPERTY OWNER'".

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-9, OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE TIMING OF A PUBLIC HEARING".

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-16(1) OF THE CODE OF SUSSEX COUNTY TO DELETE A TYPOGRAPHICAL ERROR".

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, SECTION 115-174, OF THE

CODE OF SUSSEX COUNTY TO DEFINE WHEN CONSTRUCTION OR USE IS SUBSTANTIALLY UNDERWAY OR ABANDONED FOR THE PURPOSE OF DETERMINING THE PERIOD OF VALIDITY FOR A CONDITIONAL USE”.

[Mr. Cole joined the meeting at 11:42 a.m.]

Introduction of Proposed Ordinances (continued) **Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.1 TO INCLUDE REFERENCE TO SETBACKS AND BUFFERS IN THE CR-1 COMMERCIAL RESIDENTIAL DISTRICT”.**

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 218, OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE VALIDITY OF AN RPC PRELIMINARY AND FINAL SITE PLAN”.

The Proposed Ordinances will be advertised for Public Hearing.

Grant Requests **Mrs. Webb presented grant requests for the Council’s consideration.**

M 197 12 Community Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$250.00 from Mr. Vincent’s Community Grant Account to the Seaford FFA Chapter for travel expenses.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 198 12 Community Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 from Mr. Vincent’s Community Grant Account to the Church of God for the Annual Community Day Event.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 199 12 Community Grant **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Community Grant Account) to The Jefferson School for a fundraiser to benefit the Chad Spicer Memorial Scholarship Program.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 200 12 **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give**
Community **\$500.00 from Mr. Wilson's Community Grant Account to Grace United**
Grant **Methodist Church for a community youth event.**

M 200 12 **Motion Adopted: 5 Yeas.**
(continued)

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 201 12 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00**
Community **(\$100.00 from each Community Grant Account) to the Lower Sussex**
Grant **NAACP Youth Council #2719 for travel expenses.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 202 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00**
Community **from Mr. Cole's Community Grant Account to the Beach and Bay Cottage**
Grant **Tour to benefit the Friends of the South Coastal Library.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 203 12 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$750.00**
Community **(\$500.00 from Mr. Wilson's Community Grant Account and \$250.00 from**
Grant **Mr. Phillips' Community Grant Account) to the Town of Georgetown for**
the festival expenses.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 204 12 **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00**
Community **(\$250.00 each from Mr. Wilson's and Mr. Vincent's Community Grant**
Grant **Accounts) to the Bridgeville Police K9 Fund to establish a K9 Unit.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 205 12 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00
Grant from Mr. Phillips' Community Grant Account to Boy Scout Troop 89 for
M 205 12 Eagle project expenses.

Community
Grant
(continued)

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Introduction
of Proposed
Zoning
Ordinances

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CUSTOM WOODWORKING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 3.802 ACRES, MORE OR LESS" (Conditional Use No. 1931) filed on behalf of Crist and Brian Zook.

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 27,250 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1932) filed on behalf of Tanya A. Gibbs and Kimwuan L. Gibbs.

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 13.24 ACRES, MORE OR LESS" (Change of Zone No. 1716) filed on behalf of Box 64B Selbyville, LLC.

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH, HUNDRED, SUSSEX COUNTY, CONTAINING 24,763 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1717) filed on behalf of William N. Hein.

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE

TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS” (Change of Zone No. 1718) filed on behalf of Gary L. Hudson.

**Additional
Business**

Under Additional Business, Dan Kramer criticized the Council for giving money to churches and he stated that the Council members have sworn to uphold the Constitution and they should uphold the Constitution.

Ed Funk discussed problems with drug houses and foreclosures and the blight that they are causing in the communities. He asked the Council to look into this problem and to look into expediting the sheriff sale process.

Larry Calhoun also criticized the Council for giving money to churches and he criticized the churches that seek funding from the Council.

Roberta Carol, Larry Calhoun, Cookie Woodhouse, Edna Ewing, Henry Seppi, George Otto, Salvatore Zisa, Eric Bodenweiser, Larry Mayo, Wolfgang von Baumgart, Rick Schroeder, and Laurene Purdy spoke (1) in support of the Sheriff and (2) in opposition to House Bill 290; they referenced the Constitution, the Attorney General’s opinion, the Oath of Office that the Council members take when they are sworn in; and the fact that State Police are not elected and therefore, not accountable. Comments were also made regarding the validity of the birth certificate of President Obama.

Roberta Carroll submitted her comments in writing (her comments have been copied and distributed to all Council members).

Earl Lofland, Meyer Persow, and K. Patrick Lynch spoke in support of House Bill 290.

**M 206 12
Go Into
Executive
Session**

At 12:57 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session to discuss issues relating to land acquisition and pending/potential litigation.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Executive
Session**

At 12:59 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to land acquisition and pending/potential litigation. The Executive Session concluded at 1:12 p.m.

M 207 12
Reconvene
Regular
Session **At 1:13 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 5 Yeas.

M 207 12
(continued) **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 208 12
Continue
Negotiations
on Pending/
Potential
Litigation **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to continue negotiations (on pending/potential litigation discussed in Executive Session on this date) that are ongoing and authorizing the President to act on the negotiations.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 209 12
Continue
Negotiations
on Land
Acquisition **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to authorize the President to continue with the land acquisition matter (discussed in Executive Session on this date) and to negotiate a potential contract, if necessary.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 210 12
Recess **At 1:14 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 211 12
Reconvene **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene at 1:38 p.m.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;

Mr. Vincent, Yea

Public
Hearing/
C/U
No. 1926

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CONDITION NO. 8 OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2204 FOR CONDITIONAL USE NO. 1862 FOR NANTICOKE SHORES ASSOCIATES, LLC AS IT RELATES TO EARTHEN BERMS AROUND THE PERIMETER OF THE PROPERTY FOR A CAMPGROUND/RV PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.81 ACRES OF A 138 ACRE TRACT” (Conditional Use No. 1926) filed on behalf of Nanticoke Shores, LLC.

Public
Hearing/
C/U
No. 1926
(continued)

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 22, 2012 at which time the Commission deferred action. On April 12, 2012 the Commission recommended that the application be approved with the recommendation that Condition No. 8 of Ordinance No. 2204 / Conditional Use No. 1862 (*The project shall be surrounded by a 50 foot vegetative buffer with a 6-foot earthen berm, planted with indigenous trees, and the perimeter of the property shall be fenced with a security gate at the entrance to the campground/RV park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.*) be stricken and replaced with the following:

A 50 foot vegetative buffer with a 6 foot wide earthen berm planted with indigenous trees shall be constructed around that portion of the perimeter of the site which abuts any existing mobile homes in Rehoboth Shores, running parallel to Seagull Lane, Seahawk Lane, crossing Bayview Lane and ending at the northern portion of the site at Baybreeze Lane, screening all existing mobile homes from view of the Campground/RV Park site. The balance of the perimeter of the property shall have a 50 foot vegetative buffer, with three rows of indigenous trees planted in the buffer area in addition to the trees that already exist on that portion of the perimeter of the property, thereby insuring that best practice storm water management will occur and that the potential for flooding the site and any portion of the developed area of Rehoboth Shores Community is minimized. The perimeter of the property shall be fenced, with a security gate at the entrance to the Campground/RV Park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.

(See the minutes of the Planning and Zoning Commission dated March 22 and April 12, 2012.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Mr. Lank distributed Exhibit Booklets that were provided by the Applicant.

**Public
Hearing/
C/U
No. 1926
(continued)**

The Council found that David Podlaseck, General Manager of Rehoboth Shores and Tall Pines Campground, was present with Gene Bayard, Attorney. They stated that the purpose of the application is to amend Condition No. 8 only; that Condition No. 8 references that “The project shall be surrounded by a 50 foot vegetative buffer with a 6-foot earthen berm, planted with indigenous trees, and the perimeter of the property shall be fenced with a security gate at the entrance to the campground/RV park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.”; that the Sussex Conservation District has advised that it has been questioned whether installing a berm along the marsh to the north of the development will obstruct drainage, and that per the District review, the District believes that the berm will obstruct rear lot drainage from the proposed units; that if they were to create a berm around the perimeter of the property and there was a flood, flooding rains or storms, it would create a lake that would flood out the entire area and flood back into Rehoboth Shores; and that a continuous berm around the perimeter of the site will obstruct the natural conveyance of the property to the marsh.

Mr. Bayard clarified that the photos submitted during the Planning and Zoning Commission Public Hearing were not taken within the proposed campground.

There were no public comments and the Public Hearing was closed.

**M 212 12
Close
Public
Record/
C/U
No. 1926**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to close the public record on Conditional Use No. 1926.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 213 12
Adopt
Ordinance
No. 2251/
C/U
No. 1926**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2251 entitled “AN ORDINANCE TO AMEND CONDITION NO. 8 OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2204 FOR CONDITIONAL USE NO. 1862 FOR NANTICOKE SHORES ASSOCIATES, LLC AS IT RELATES TO EARTHEN BERMS AROUND THE PERIMETER OF THE PROPERTY FOR A CAMPGROUND/RV PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.81 ACRES OF A 138 ACRE TRACT” (Conditional Use No. 1926) filed on behalf of Nanticoke Shores, LLC., with the amendment to Condition No. 8 as follows:

A 50 foot vegetative buffer with a 6 foot wide earthen berm planted with indigenous trees shall be constructed around that portion of the perimeter of the site which abuts any existing mobile homes in Rehoboth Shores,

**M 213 12
Adopt
Ordinance
No. 2251/
C/U
No. 1926
(continued)**

running parallel to Seagull Lane, Seahawk Lane, crossing Bayview Lane and ending at the northern portion of the site at Baybreeze Lane, screening all existing mobile homes from view of the Campground/RV Park site. The balance of the perimeter of the property shall have a 50 foot vegetative buffer, with three rows of indigenous trees planted in the buffer area in addition to the trees that already exist on that portion of the perimeter of the property, thereby insuring that best practice storm water management will occur and that the potential for flooding the site and any portion of the developed area of Rehoboth Shores Community is minimized. The perimeter of the property shall be fenced, with a security gate at the entrance to the Campground/RV Park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Conflict of
Interest**

Mr. Cole stated that, due to a possible conflict of interest, he would not be participating in the next Public Hearing and he left the meeting.

**Public
Hearing/
C/U
No. 1927**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH GAS PUMPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.88 ACRES, MORE OR LESS” (Conditional Use No. 1927) filed on behalf of Two Farms, Inc.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 22, 2012 at which time the Commission deferred action. On April 12, 2012 the Commission recommended that the application be approved with the following conditions:

- 1. Unless the Applicants apply for commercial zoning for the entire property, the use shall be limited to a convenience store with gas pumps. This Conditional Use shall not affect the ongoing operation of O’Neals Auction Center Store which also currently exists on the property.**
- 2. The Applicants shall comply with all DelDOT entrance and access requirements.**
- 3. A landscaping plan shall be included as part of the Final Site Plan approval process. The landscape plan shall include details about the buffer along U.S. Route 13 required by the Combined Highway Corridor Overlay Zone classification that applies to this property.**
- 4. One lighted sign, not to exceed 32 square feet in size, shall be permitted on the Conditional Use portion of this site. The sign**

regulations applicable to commercial districts shall govern that portion of the site that is currently zoned C-1 General Commercial.

5. The Conditions of Approval shall be noted on the Final Site Plan.
6. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Public
Hearing/
C/U**

(See the minutes of the Planning and Zoning Commission dated March 22 and April 12, 2012.)

**No. 1927
(continued)**

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

The Council found that Garth Jones, Civil Engineer with Becker Morgan Group, was present on behalf of the application. He stated that they are the site engineers for the project; that Two Farms, Inc. is proposing to build a Royal Farms; that the project involves two properties on the south east corner of Route 24 and Route 13 near Laurel; that following settlement, Two Farms LLC will own both properties; that the existing repair shop on the C-1 parcel will be removed; that the auction building and related parking on the AR-1 parcel will remain; that Royal Farms would consolidate both properties into one parcel; that the Conditional Use application is for the O'Neals property which was the subject of a prior Conditional Use; that they are proposing a 5,800 square foot store with two fueling areas, totaling about 32 gas pumps; that a Traffic Impact Study was performed by DelDOT and they have made several recommendations regarding improvements to Route 113 and Route 24; that DelDOT will permit a right-in and right-out entrance only on Route 13 and as a result, the Applicant will have to construct a right turn lane on Route 13 to access the site; that the existing entrance on Route 24 (being used by O'Neal's Auction Center) will be maintained and brought up to DelDOT's standards; that they will also have to install a left turn lane on Route 24 into the site; that they will address stormwater management; that public sewer or water are not available to the site since the site is located outside of town limits; that a soil evaluation study has been performed and approved by DNREC; that the auction center has an on-site septic system and it will be expanded to accommodate both uses; that a new well will be installed to serve the Royal Farms store; that there will be no shared parking and they have added parking since the original site rendering; and that the Applicant is agreeable, once the project is under construction, to come back to the County and file for a rezoning to commercial zoning.

There were no public comments and the Public Hearing was closed.

**M 214 12
Close
Public
Record/
C/U**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to close the public record on Conditional Use No. 1927.

Motion Adopted: 4 Yeas, 1 Absent.

**No. 1927 Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 215 12 Adopt Ordinance M 215 12 Adopt Ordinance No. 2252/ C/U	A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2252 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH GAS PUMPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.88 ACRES, MORE OR LESS" (Conditional Use No. 1927) filed on behalf of Two Farms, Inc., with the following conditions:
--	--

No. 1927

(continued)

- 1. Unless the Applicants apply for commercial zoning for the entire property, the use shall be limited to a convenience store with gas pumps. This Conditional Use shall not affect the ongoing operation of O'Neals Auction Center Store which also currently exists on the property.**
- 2. The Applicants shall comply with all DelDOT entrance and access requirements.**
- 3. A landscaping plan shall be included as part of the Final Site Plan approval process. The landscape plan shall include details about the buffer along U.S. Route 13 required by the Combined Highway Corridor Overlay Zone classification that applies to this property.**
- 4. One lighted sign, not to exceed 32 square feet in size, shall be permitted on the Conditional Use portion of this site. The sign regulations applicable to commercial districts shall govern that portion of the site that is currently zoned C-1 General Commercial.**
- 5. The Conditions of Approval shall be noted on the Final Site Plan.**
- 6. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 216 12 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn**
Adjourn **at 2:18 p.m.**

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

